

Highlights of Maine Management Service Rules

Applicability:

- Classified confidential managers who are members of the Maine Management Service as defined in the rules.
- Additionally, the classification and compensation rules apply to unclassified MMS members whose positions are, by law, subject to the same classification and compensation standards as classified employees.

Underlying principles:

- All employment decisions will be based on merit: ability, qualifications, performance.
- Principle of fairness is maintained throughout with appropriate oversight/appeal mechanisms.
- Prescriptive procedures are eliminated to allow agencies the flexibility they need to manage their operations.
- Predicated on building skills and accountability among agency HR professionals and agency managers to manage in a manner that is consistent with merit principles.

Classification and Compensation:

- Broadly described management classifications are now being developed.
- Authority to assign salary grade via job evaluation and within budget is delegated to agencies.
- Agency HR professionals and selected line managers will be trained in job evaluation by Hay Association this spring.
- Transition from current class structure –all will remain at current salary grade, step, and anniversary date upon transition to MMS. Agencies may take changes over time in accordance with rules and policies, within budget.

Selection:

- Decentralized to agencies.
- Specific recruitment processes are not prescribed, but agencies must adhere to merit principles when filling vacancies.
- Skill building: one day course in recruitment/selection plus recruitment handbook.

Training and development:

- Collaborative effort between agencies, central Bureau, and individual managers.
- Agencies must provide development and training opportunities.
- Managers are responsible to seek out opportunities.
- MMS core training is required.

Reductions in Force:

- At times of RIF, the appointing authority must preserve the agency's ability to effectively accomplish its mission, considering ability and qualifications first, and where there is no demonstrable difference, length of service.
- Layoff may not be used in lieu of discipline, illegal discrimination, nepotism, political affiliation, retaliation, whistle blowing, or other illegal or inappropriate reason.

Complaints, grievances, and investigations:

- Attempt to identify grievances early and give employees an opportunity to discuss them with their supervisor, and to find mutually satisfactory solutions as rapidly as possible.
- Grievances and disputes that cannot be resolved at the agency level may be considered in accordance with Civil Service Law, which prescribes a process through the Bureau of Human Resources and ultimately to the Civil Service Appeals Board. (Title 5, Sec. 7081 – 7084)

18 **DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

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Chapter 15: **THE MAINE MANAGEMENT SERVICE**



SUMMARY: This Chapter defines the Maine Management Service (hereinafter referred to as the MMS) and incorporates the MMS into the State of Maine Civil Service Rules.

§1. **Definition and Goals**

1. The MMS recognizes the unique nature of confidential executive and management positions in State Government, the importance of strong management, the need to provide greater flexibility and responsibility for managers in hiring, employee development, performance management, and career advancement. The MMS includes all confidential executives and managers who directly manage Maine's public service programs, serve as a manager or consultant in management support functions, and confidential employees who provide advice and assistance to executives as a member of an agency's senior management team. The MMS recognizes that human resource decisions, including hiring process and salary considerations, are best handled by individual agencies in an environment that preserves fairness, statewide equity and merit principles for classified confidential managers.
2. This chapter is intended to incorporate the following goals:
 - A. A simplified classification system that facilitates movement of managers between agencies and promotes upward mobility.
 - B. A compensation system that provides flexibility in setting and changing salaries.
 - C. Strengthened management training and career development programs that build managerial and leadership competencies; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making, and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities.
 - D. Flexible, timely recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace.

- E. Provisions that managers may only be dismissed, suspended, or demoted for cause.
 - F. Facilitation of decentralized and regional administration.
 - G. Preserves merit principles and ensures that decisions are not based on nepotism, patronage or political considerations.
3. Except as otherwise provided, this chapter applies only to classified confidential employees who meet the definition of manager. Manager or managerial employee means the incumbent of a position that is assigned as follows:
- A. Formulates state-wide policy or directs the work of an agency or agency subdivision, or;
 - B. Administers one or more state-wide policies or programs of an agency or agency subdivision, or;
 - C. Has substantial responsibility in personnel administration, legislative relations, public information, or;
 - D. Prepares and administers budgets.

§2. Applicability

- 1. This Chapter applies to all classified confidential managers who are otherwise covered by the Civil Service Rules, and satisfy the criteria for MMS membership as prescribed in Section 1 of this Chapter, and who are excluded from bargaining pursuant to the State Employees Labor Relations Act. This chapter supersedes Chapters 4,5,6,7, 8,12 (Sections 1,2,and 4), and 13 of the Civil Service Rules with respect to MMS positions. All other provisions of State of Maine Civil Service Rules retain full force and effect. If the provisions of this Chapter come into conflict with other aspects of the State of Maine Civil Service Rules with respect to MMS positions, this Chapter will govern.
- 2. Additionally, Sections 4 and 5 of this Chapter apply to unclassified confidential managers who are excluded from bargaining and whose positions are, by law, subject to the same classification and compensation standards as classified employees and who satisfy the criteria for MMS membership as prescribed in Section 1 of this Chapter.

§3. Definition of Terms

- 1. The following words and terms, wherever used in this chapter, shall have the following meaning:
 - A. "Agency" means a department, division, board, institution, or other unit of the Executive Branch, in which all positions are under the same appointing authority.
 - B. "Allocate" means the assignment of a salary grade, subject to budgetary procedures, to an individual position.
 - C. "Appointing Authority" means a person or group of persons empowered by the constitution, by statute, or by lawfully delegated authority to make appointments to positions in the State Service.

- D. "Benchmark Classification" means a group of positions so sufficiently alike with respect to duties, responsibilities and authority that the same descriptive title may be used with clarity to designate each such position.
- E. "Classification Plan" means a system of identifying and describing the different kinds and levels of work which comprise the MMS whereby significantly similar positions are grouped under a common Benchmark Classification.
- F. "Classification Schedule" means the listing of individual positions and their designated pay ranges and any amendment/adjustments thereto, resulting from application of the classification plan.
- G. "Classify" means to assign an individual position to a benchmark classification.
- H. "Demotion" means a rate of pay adjusted to a lower rate in another benchmark classification and/or management function.
- I. "Individual position" means a group of current duties and responsibilities assigned or delegated by competent authority, requiring the employment of one person. Individual positions are assigned within the various Benchmark Classifications.
- J. "Management Function" means broadly defined series of Benchmark Classifications grouped according to their managerial role.
- K. "Promotion" means a rate of pay adjusted to a higher rate in another benchmark classification and/or management function.
- L. "Salary Grade Adjustment" means changing an employee's authorized salary grade, based on evaluated job content.
- M. "Salary Grade" means an authorized and budgeted minimum, maximum, and intermediate rates of pay (steps).
- N. "Salary Range" means grades authorized for a benchmark classification.
- O. "Unclassified employee" is in a job that is excluded from the civil service system. [NOTE: All unclassified positions have a basis in law and are not subject to civil service. MMS employees who fill unclassified positions that are excluded from the collective bargaining process are appointed to serve "at the pleasure" of the hiring authority. Examples of unclassified "serve-at-the-pleasure" positions include cabinet members, heads of State boards and agencies and major policy-influencing appointees.]
- P. "Transfer" means a change in position or assignment where the rate of pay remains unchanged.

§4. Classification Plan

1. The Director, in consultation with the agency appointing authority, will determine which confidential positions are subject to Chapter 15 of the Civil Service Rules.
2. The Director shall provide for the preparation, maintenance, and revision of a classification plan for all positions subject to this chapter, both classified and unclassified, on the basis of similarity of duties performed and responsibilities assumed. Application of

this plan shall result in a classification schedule and the Director shall follow this schedule to classify or reclassify the position of each covered employee to the appropriate Management Functions, Benchmark Classifications, and individual positions.

- A. A MANAGEMENT FUNCTION within the MMS broadly defines jobs according to their managerial role.
 - (1) Classification or reclassification of an individual position from one Management Function to another requires review and approval by the Director.
 - (2) Management Functions within the MMS include broadly defined jobs designated by the Director.
 - B. The Director will establish BENCHMARK CLASSIFICATIONS within each Management Function.
 - (1) Each benchmark classification will have a title, classification code, and salary range, determined by a standard job classification methodology.
 - C. Each benchmark classification will contain a number of INDIVIDUAL POSITIONS at specific salary grades.
 - (1) The authority to allocate individual positions to a salary grade within the salary range authorized for a benchmark classification is delegated to the appointing authority, subject to budgetary procedures, based on evaluated job content.
 - (2) The Director retains final authority to classify individual positions to benchmark classifications upon implementation of the MMS and for all new positions.
 - (3) Reclassification of an individual position to another Benchmark Classification requires approval by the Director.
 - (4) The Director may enter into agreements with individual agencies that permit variations to the process prescribed in this section.
 - D. The Director may remove from the classification schedule those classifications that are no longer functional.
 - E. No classification, reclassification, allocation, or reallocation may become effective until the funding basis is verified and approval is made known to the appointing authority and employee(s).
3. Transition to the MMS
- A. When initially placed in the MMS, incumbents will:
 - (1) Retain current salary grade, salary step, applicable performance review date, salary review date, longevity date, and other employment-related service dates;
 - (2) Immediately assume permanent status in the MMS for permanent status employees;

- (3) Obtain permanent status upon completion of the probationary period for employees in probationary status at the time of transition; and,
- (4) Continue other status and benefits associated with employment as a "Confidential" employee.

4. Classification Specifications and Supporting Documentation

- A. Benchmark Specifications - The Director shall provide and maintain written specifications for each benchmark classification of the classification schedule. Each specification shall be the summary document of all positions comprising the class and have the following characteristics:
 - (1) The benchmark specifications shall include class title, description of type/level of work performed, benchmark competencies, and other information special to the class.
 - (2) The benchmark classification shall be the official title of each position it represents and this name, or abbreviation approved by the Director, shall be used by the appointing authority on all official records/reports relating to each such position.
 - (3) Agencies may distinguish individual positions within a Benchmark classification in any manner that meets the needs of the agency for reporting or other purposes.
- B. Job Evaluation Reports/Forms - The Director shall gather and maintain documentation that describes individual positions and/or establishes their relation to the organization of which they are a part. Such information may include position description forms, position analysis and/or evaluation forms, organizational charts and general research data.
- C. Basis for Allocation and Reallocation - The specifications for individual positions, when considered together with the foregoing supportive data, shall provide basis for allocation and reallocation actions.

5. Notification

- A. Upon completion of each job evaluation process for classification of new positions or reclassification of existing positions, the Director shall make written notice to the appointing authority and/or employee to report actions taken and decisions reached.

6. Appeals Process

- A. Any appointing authority, MMS employee, who is aggrieved by a classification or reclassification decision offered by the Director, or an appointing authority as delegated by the Director, shall have the right to appeal the decision before the State Civil Service Appeals Board in accordance with 5 MRSA, § 7081-7085.
- B. Requests for allocation/reallocation shall not be considered properly filed until all job analysis forms and other related information required by the Director, or appointing authority, to analyze the request and to make a ruling, have been provided.

§5. Compensation Plan

1. Nature of the Compensation Plan

A. Use and Structure of Salary Schedules

- (1) The pay of classified and covered unclassified employees shall be on the basis of appropriate weekly schedules or hourly wage rates as adopted and published by the Director for the respective salary grades. Each schedule shall consist of an entrance rate, intermediate rate or rates, and a maximum rate except for those grades where the Director prescribes a flat or single rate. The schedule of weekly salaries and hourly wage rates, including amendments made in accordance with the Civil Service Law and these rules shall constitute the official compensation plan for all covered classified and unclassified positions.

B. Full-time Basis of Salary Schedules

- (1) Standard Conditions - The salaries provided in the standard salary schedules are fixed on the basis of full-time service for workweeks of 40 hours.
- (2) Non-Standard Conditions - The salary rates for positions specified by the Director as non-standard, and so identified in the official Salary Schedule, are established on the basis of full-time service for the variable work week required by working conditions or outside operating duty.

C. Application of Salary Amounts

- (1) Total Remuneration - Any salary paid to an employee in the classified service shall represent the total remuneration for the employee, not including reimbursements for official travel. Except as otherwise provided, no employee shall receive pay from the state in addition to the salary authorized under the schedules provided in the pay plan for services rendered, either in the discharge of ordinary duties, or the performance of any additional duties which may be imposed, or which may be undertaken or performed voluntarily.

D. Subsistence and Maintenance Allowances

- (1) Subsistence or maintenance allowances received in lieu of cash must be considered as part of the total salary. Whenever subsistence or maintenance is allowed in lieu of cash, a schedule of such maintenance together with a statement of the policy and rules to be followed in making charges therefore shall be submitted by the appointing authority for the approval of the Director.

2. Maintenance of the Compensation Plan

A. Position Assignment to Benchmark Classification

- (1) The Director shall authorize the assignment or reassignment of an MMS position to a Benchmark Classification upon written recommendation from the appointing authority, such recommendation to be made in a manner prescribed by the Director. Benchmark classification assignments are subject to funding approval by the Bureau of the Budget.

B. Position Grade Allocation

- (1) Each appointing authority is responsible to effectively manage salaries for its MMS positions within budget and established budgetary procedures.
- (2) For each benchmark classification, the Director shall establish a series of salary grades to which agencies may allocate positions assigned to the benchmark classification.
- (3) Agency may allocate or reallocate MMS positions to any salary grade authorized for the Benchmark Classification to which the position is assigned. Such allocation or reallocation must be determined utilizing the job evaluation methodology authorized by the Director.
- (4) Position grade allocations or reallocations are tentative, subject to funding approval by the Bureau of the Budget.

C. Employee Compensation Administration

- (1) Upon initial employment or re-employment, an appointing authority may set the salary at any salary step within the salary grade authorized for the position.

- (2) Adjustments to the compensation for a MMS employee shall not exceed the maximum or fall below the minimum amount of the salary grade to which the position is allocated.
- (3) Involuntary downward movement based on a non-disciplinary reassignment of duties that results in a lower Benchmark Classification and/or salary grade for an employee's present position shall not cause a decrease in the employee's current salary. The employee's current salary will be retained ("redlined") until such time as it is exceeded by the MMS salary structure or the employee leaves the position.
- (4) A reduction in salary for disciplinary reasons may be made in accordance with Ch. 12 Sec. 2.
- (5) Reemployment from Layoff - If a former employee is reemployed from layoff to the Individual Position in which the employee was previously employed, the appointing authority shall make the appointment at the same step in the Individual Position that the employee held at the termination of service.
- (6) Project Employment - For employment on a strictly nonrecurring project duty, the Director may authorize, as necessary due to recruiting difficulties, a rate of pay which may exceed the maximum of the range provided by not more than 50%. In any case, authorized because of the project nature of the work the employee shall not be entitled to vacation, sick leave or holidays.
- (7) Merit Increase Awards.
 - (a) Salary adjustments within an established salary grade shall be dependent upon specific written recommendations by the appointing authority, which shall be based upon standards of performance as indicated by service ratings or other pertinent data.
 - (b) Every appointing authority must, at least once in every 12 months, review the work performance of each employee to determine whether the rate of pay of that employee should be advanced to the next step in the range and shall advise the employee in writing of his/her determination and reasons therefore.
 - (c) Ordinarily, increases in salaries shall not be more than one step, and shall not be made more often than once every 12 months, except that an appointing authority may authorize salary increases of more than one step or more frequently than once every 12 months.

D. Other pay practices.

- (1) Each agency is responsible for determining the work period designation for each of its positions in accordance with the federal Fair Labor Standards Act.

E. Overtime Compensation Guidelines

- (1) Overtime compensation for non-exempt MMS employees is prescribed by the Fair Labor Standards Act.

F. Complete time and attendance records shall be maintained by each agency.

§6. Recruitment, Application and Selection

1. The intent of this section is to assure that all classified positions in the MMS are filled in an open, fair, and expeditious manner, with the objective of hiring and retaining the best person for the position as quickly as possible, and to encourage decentralized administration of the recruitment and selection processes when it is appropriate for the agency.
2. In filling vacancies each agency will adhere to the following fundamental principles:
 - A. To consider any or all qualified candidates for hire, promotion, or internal movement.
 - B. Ensure that hiring decisions are fair, objective, and based on the evaluation of the knowledge, skills, abilities, and other job-related characteristics required for successful job performance.
 - C. Support affirmative action goals established in agency affirmative action plans.
 - D. Consider the career development of the agency's employees and other state employees.
 - E. Ensure that hiring decisions are not based on nepotism, patronage, or political affiliation.
 - F. Ensure compliance with state and federal laws relating to employee selection and nondiscrimination.
3. Agencies may develop policies for recruitment and selection that are customized for each recruitment and selection need. Agency policies may allow for multiple approaches to fill vacancies in any given classification or position.
4. The Bureau of Human Resources shall investigate allegations of agency failure to adhere to the fundamental principles itemized in sub-section 2 above.

§7. Training and Professional Development

1. The responsibility for training and development is a collaborative effort among State agencies, managers, and the Bureau of Human Resources.
 - A. Each agency must provide professional development and training opportunities designed to refine and broaden managerial knowledge, skills and abilities. The value of diversity and the administration of State civil service system will be part of this training.
 - B. Managers are responsible for seeking out and fully participating in opportunities to enhance their knowledge, skills and abilities.

- C. The Director will assist agencies by providing leadership and managerial training programs, administering development programs, consultative services, and technical assistance to help agencies address the development needs of their managers. Managers will receive:
 - (1) New employee orientation within three months of initial employment in Maine State Government;
 - (2) New managers' orientation within three months of appointment to managerial position in Maine State Government;
 - (3) Leadership training to include the MMS Core Leadership Competencies;
 - (4) Other training and development activities identified in professional development plans.
- 2. Each agency shall develop policies for managerial development and training opportunities and criteria for providing textbooks, materials, registration fees, and other training and educational expenses, tuition reimbursement, and/or educational leave.

§8. Layoff: Conditions and Procedure

- 1. Conditions
 - A. An appointing authority may lay off an MMS employee by reason of abolition of position, shortage of work or funds, good-faith reorganization for efficiency purposes, or other reasons outside the employee's control which do not reflect discredit on the service of the employee.
 - (1) Layoffs may not be used in lieu of discipline, illegal discriminatory reasons, nepotism, political affiliation, retaliation, whistle blowing, or other circumstances that are not related to reorganization.
 - B. Any interruption of employment of fifteen calendar days or less is not considered a layoff.
 - C. Actions Associated with Reduction in Force
 - (1) The duties formerly performed by laid off employees may be assigned to other qualified employees.
 - (2) An MMS employee may be demoted by reductions in funding or headcount to other positions in the same or a lower MMS classification for which the agency determines the employee is qualified.
 - (a) No MMS employee may be required to accept transfer to a position more than 30 miles from his or her current worksite.
 - (b) No MMS employee may be required to accept demotion. MMS employees so affected may elect layoff in lieu of demotion.
- 2. Organizational Units
 - A. Organizational units may be established within an agency on the basis of geographic, functional, budgetary, statutory or other lines.

- B. In the event that organizational units are established within an agency, the units will thereafter be used for layoff.
 - C. The appointing authority must post a listing of established organizational units.
- 3. Length of service determination
 - A. Length of service for purposes of layoff is the length of continuous employment with permanent or probationary civil service status. There shall be no pro-ration for part-time and seasonal employment.
 - B. Length of service of permanent or probationary employees on leave of absence or layoff will continue to accrue.
 - C. A former MMS employee who is on layoff and who is re-employed within three (3) years of layoff will be credited with length of service.
- 4. Procedure for layoff
 - A. When an appointing authority determines that a reduction in force in the MMS is necessary, employees who are to be laid off, transferred, or demoted must be selected in such a way as to preserve the agency's ability to effectively accomplish the mission of the agency. In making determinations, the appointing authority shall consider:
 - (1) Demonstrable differences between MMS employees based upon the ability and qualifications to perform the duties of the remaining MMS positions, and, demonstrable differences in the quality of past performance.
 - (2) Where the appointing authority determines the factors in (1) are equal, length of service will be the determining factor in implementing a reduction in force.
- 5. Reemployment from Layoff
 - A. The names of permanent MMS employees who are laid off, or demoted in lieu of layoff, must be placed on a statewide directory, which will serve as a resource for agencies in filling MMS vacancies. Retention in layoff status and placement on the statewide directory will last for a period of three years from the date of layoff.
 - B. An MMS employee who is on layoff, or has been demoted in lieu of layoff, may apply for any MMS vacancy for which he or she is qualified.
 - C. The agency shall consider an applicant's layoff status in the recruitment and selection process. An MMS employee who is on layoff, has applied for, and is qualified for an MMS vacancy may be interviewed for such MMS vacancy, either individually or concurrently with any other candidate(s).
- 6. Reemployment from Layoff Provisions
 - A. Longevity. An employee who is reemployed from layoff within three (3) years of layoff will have time on layoff count for the purpose of determining eligibility for longevity pay.

- B. Vacation Accrual. Time on layoff will not count for purpose of adjustments to the vacation accrual rate.

7. Notice to Employees

- A. In every case of layoff of a permanent or probationary employee, the appointing authority must give written notice at least fifteen calendar days before the date of layoff. The notice must give reasons for the layoff. A copy of the notice must be forwarded to the Director of Human Resources at the time the notice is given to the employee.
- B. In the event that an employee is notified of transfer or demotion under this Chapter, the employee must inform the appointing authority of his/her decision to accept employment or to accept layoff within three workdays.
- C. The appointing authority will indicate to all temporary and seasonal employees at time of hire the approximate date of termination of employment. This notice will constitute all notice required under these rules.
- D. Notice to employees must include their right to grieve disputed layoff actions pursuant to 5 MRSA, § 7081-7084.

§9. Complaints, Grievances, Investigations

- 1. Policy - It shall be the policy of the State of Maine to attempt to anticipate grievances or to discover them as soon as they arise, to give employees an opportunity to discuss them with supervisors in whom they have confidence and to find mutually satisfactory solutions as rapidly as possible. In the presentation of grievances at any supervisory level, employees are ensured freedom from restraint, interference, discrimination or reprisal.
- 2. Law and Rule Enforcement - The Director shall receive and consider any protest and any matter concerned with the administration of the act and these rules. On the basis of such protest or as personally decided, the Director shall make such investigation as deemed desirable concerning all matters touching the enforcement and effect of the provisions of the Personnel Law and these rules and regulations established there under.
- 3. All grievances and disputes of members of the MMS will be considered consistent with 5 MRSA, § 7081-7084.

§10. Disciplinary Action

- 1. An appointing authority may discipline a MMS employee for misconduct, unsatisfactory job performance or other cause.
 - A. Disciplinary action is defined as suspension with or without pay, demotion or dismissal.
 - B. The specific reason(s) for suspension, demotion or dismissal shall be furnished to the employee in writing prior to the effective date of the disciplinary action.
- 2. Appeal Procedure
 - A. A permanent employee may appeal a disciplinary action pursuant to 5 MRSA, § 7081-7085, as amended.

- B. Probationary, acting capacity, project and other non-status employees who may be disciplined are not entitled to an appeal as otherwise provided.
 - 3. Related provisions
 - A. No length of service shall be acquired during the period of disciplinary suspension.
 - B. Employees who are exempt from the overtime provisions of the Federal Fair Labor Standards Act may be suspended without pay pursuant to the provisions of the Fair Labor Standards Act.
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STATUTORY AUTHORITY: 5 MRSA, § 7036, sub-§ 17

EFFECTIVE DATE:
July 13, 2002